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SENATE BILL DRS45152-MR-54A (02/21)

Short Title: Law Enforcement Officer Retirement/25 Years. (Public)

Sponsors: Senators Britt, Cook, and Sanderson (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ALLOW LAW ENFORCEMENT OFFICERS WHO ARE MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM OR THE LOCAL GOVERNMENT EMPLOYEES' RETIREMENT SYSTEM TO RETIRE WITH UNREDUCED BENEFITS AFTER ACHIEVING TWENTY-FIVE YEARS OF CREDITABLE SERVICE AND TO MAKE CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 135-5(a)(4) reads as rewritten:

"(4) Any member who is a law-enforcement officer and who (i) attains age 50 and completes 15 or more years of creditable service in this ~~capacity or who~~ capacity, (ii) attains age 55 and completes five or more years of creditable service in this capacity, or (iii) has completed 25 years of creditable service may retire upon electronic submission or written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than one day nor more than 120 days subsequent to the execution and filing thereof, ~~he~~ the member desires to be retired; Provided, also, any member who has met the conditions herein required but does not retire, and later becomes a teacher or an employee other than as a law-enforcement officer shall continue to have the right to commence retirement."

SECTION 1.(b) G.S. 135-5(b19) reads as rewritten:

"(b19) Service Retirement Allowance of Members Retiring on or After July 1, ~~2002~~ 2002, but Before January 1, 2018. – Upon retirement from service in accordance with subsection (a) or (a1) of this section, on or after July 1, 2002, but before January 1, 2018, a member shall receive the following service retirement allowance:

(1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

- a. If the member's service retirement date occurs on or after his 55th birthday, and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and eighty-two hundredths percent (1.82%) of his average final compensation, multiplied by the number of years of his creditable service.
- b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to the



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- 1 completion of 30 years of creditable service, his retirement allowance
2 shall be equal to the greater of:
- 3 1. The service retirement allowance payable under
4 G.S. 135-5(b19)(1)a. reduced by one-third of one percent ($1/3$ of
5 1%) thereof for each month by which his retirement date
6 precedes the first day of the month coincident with or next
7 following the month the member would have attained his 55th
8 birthday; or
 - 9 2. The service retirement allowance as computed under
10 G.S. 135-5(b19)(1)a. reduced by five percent (5%) times the
11 difference between 30 years and his creditable service at
12 retirement.
- 13 (2) A member who is not a law enforcement officer or an eligible former law
14 enforcement officer shall receive a service retirement allowance computed as
15 follows:
- 16 a. If the member's service retirement date occurs on or after his 65th
17 birthday upon the completion of five years of membership service or
18 after the completion of 30 years of creditable service or on or after his
19 60th birthday upon the completion of 25 years of creditable service, the
20 allowance shall be equal to one and eighty-two hundredths percent
21 (1.82%) of his average final compensation, multiplied by the number of
22 years of creditable service.
 - 23 b. If the member's service retirement date occurs after his 60th birthday
24 and before his 65th birthday and prior to his completion of 25 years or
25 more of creditable service, his retirement allowance shall be computed
26 as in G.S. 135-5(b19)(2)a. but shall be reduced by one-quarter of one
27 percent ($1/4$ of 1%) thereof for each month by which his retirement date
28 precedes the first day of the month coincident with or next following his
29 65th birthday.
 - 30 c. If the member's early service retirement date occurs on or after his 50th
31 birthday and before his 60th birthday and after completion of 20 years
32 of creditable service but prior to the completion of 30 years of creditable
33 service, his early service retirement allowance shall be equal to the
34 greater of:
 - 35 1. The service retirement allowance as computed under
36 G.S. 135-5(b19)(2)a. but reduced by the sum of five-twelfths of
37 one percent ($5/12$ of 1%) thereof for each month by which his
38 retirement date precedes the first day of the month coincident
39 with or next following the month the member would have
40 attained his 60th birthday, plus one-quarter of one percent ($1/4$
41 of 1%) thereof for each month by which his 60th birthday
42 precedes the first day of the month coincident with or next
43 following his 65th birthday; or
 - 44 2. The service retirement allowance as computed under
45 G.S. 135-5(b19)(2)a. reduced by five percent (5%) times the
46 difference between 30 years and his creditable service at
47 retirement; or
 - 48 3. If the member's creditable service commenced prior to July 1,
49 1994, the service retirement allowance equal to the actuarial
50 equivalent of the allowance payable at the age of 60 years as
51 computed in G.S. 135-5(b19)(2)b.

- 1 d. Notwithstanding the foregoing provisions, any member whose
2 creditable service commenced prior to July 1, 1963, shall not receive
3 less than the benefit provided by G.S. 135-5(b)."

4 **SECTION 1.(c)** G.S. 135-5 is amended by adding a new subsection to read:

5 "(b21) Service Retirement Allowance of Members Retiring on or After January 1, 2018. –
6 Upon retirement from service on or after January 1, 2018, in accordance with subsection (a) or
7 (a1) of this section, a member shall receive the following service retirement allowance:

8 (1) A member who is a law enforcement officer or an eligible former law
9 enforcement officer shall receive a service retirement allowance computed as
10 follows:

11 a. If the member's service retirement date occurs on or after the member's
12 55th birthday and completion of five years of creditable service as a law
13 enforcement officer, or after the completion of 25 years of creditable
14 service, the allowance shall be equal to one and eighty-two hundredths
15 percent (1.82%) of the member's average final compensation, multiplied
16 by the number of years of the member's creditable service.

17 b. If the member's service retirement date occurs on or after the member's
18 50th birthday and before the member's 55th birthday with 15 or more
19 years of creditable service as a law enforcement officer and prior to the
20 completion of 25 years of creditable service, the retirement allowance
21 shall be equal to the greater of the following amounts:

22 1. The service retirement allowance payable under
23 G.S. 135-5(b21)(1)a. reduced by one-third of one percent (1/3 of
24 1%) thereof for each month by which the retirement date
25 precedes the first day of the month coincident with or next
26 following the month the member would have attained age 55.

27 2. The service retirement allowance as computed under
28 G.S. 135-5(b21)(1)a. reduced by five percent (5%) times the
29 difference between 25 years and the amount of creditable service
30 at retirement.

31 (2) A member who is not a law enforcement officer or an eligible former law
32 enforcement officer shall receive a service retirement allowance computed as
33 follows:

34 a. If the member's service retirement date occurs on or after the member's
35 65th birthday upon the completion of five years of membership service,
36 or after the completion of 30 years of creditable service, or on or after
37 his 60th birthday upon the completion of 25 years of creditable service,
38 the allowance shall be equal to one and eighty-two hundredths percent
39 (1.82%) of the member's average final compensation, multiplied by the
40 number of years of creditable service.

41 b. If the member's service retirement date occurs after the member's 60th
42 birthday and before the member's 65th birthday and prior to the
43 completion of 25 years or more of creditable service, the retirement
44 allowance shall be computed as in G.S. 135-5(b21)(2)a. but shall be
45 reduced by one-quarter of one percent (1/4 of 1%) thereof for each
46 month by which the retirement date precedes the first day of the month
47 coincident with or next following the member's 65th birthday.

48 c. If the member's early service retirement date occurs on or after the
49 member's 50th birthday and before the member's 60th birthday and after
50 completion of 20 years of creditable service but prior to the completion

of 30 years of creditable service, the early service retirement allowance shall be equal to the greater of the following amounts:

1. The service retirement allowance as computed under G.S. 135-5(b21)(2)a. but reduced by the sum of five-twelfths of one percent (5/12 of 1%) thereof for each month by which the member's retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent (1/4 of 1%) thereof for each month by which the member's 60th birthday precedes the first day of the month coincident with or next following the member's 65th birthday.
2. The service retirement allowance as computed under G.S. 135-5(b21)(2)a. reduced by five percent (5%) times the difference between 30 years and the amount of creditable service at retirement.
3. If the member's creditable service commenced prior to July 1, 1994, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in G.S. 135-5(b21)(2)b.

d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1963, shall not receive less than the benefit provided by subsection (b) of this section."

SECTION 1.(d) G.S. 135-5(m) reads as rewritten:

"(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the beneficiary designated to receive a return of accumulated contributions shall have the right to elect to receive in lieu thereof the reduced retirement allowance provided by Option 2 of subsection (g) above computed by assuming that the member had retired on the first day of the month following the date of ~~his~~ the member's death, provided that all four of the following conditions apply:

- (1) a. The member had attained such age and/or creditable service to be eligible to commence retirement with an early or service retirement allowance, or
- b. The member had obtained 20 years of creditable service in which case the retirement allowance shall be computed in accordance with ~~G.S. 135-5(b19)(1)b.~~ or G.S. 135-5(b19)(2)c., G.S. 135-5(b21)(1)b. or G.S. 135-5(b21)(2)c., notwithstanding the requirement of obtaining age 50, or
- b1. The member was a law enforcement officer who had obtained 15 years of service as a law enforcement officer and was killed in the line of duty, in which case the retirement allowance shall be computed in accordance with ~~G.S. 135-5(b19)(1)b.,~~ G.S. 135-5(b21)(1)b., notwithstanding the requirement of obtaining age 50.
- c. Repealed by Session Laws 2010-72, s. 2(a), effective July 1, 2010.

...."

SECTION 1.(e) G.S. 128-27(a)(5) reads as rewritten:

"(5) Any member who is a law enforcement ~~officer,~~ officer and who (i) attains age 50 and completes 15 or more years of creditable service in this ~~capacity or who~~ capacity, (ii) attains age 55 and completes five or more years of creditable service in this capacity, or (iii) who has completed 25 years of creditable service may retire upon electronic submission or written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than one day nor more than 120 days subsequent to the

1 execution and filing thereof, ~~he~~ the member desires to be retired; provided, also,
2 any member who has met the conditions required by this subdivision but does
3 not retire, and later becomes an employee other than as a law enforcement
4 officer, continues to have the right to commence retirement."

5 **SECTION 1.(f)** G.S. 128-27(b21) reads as rewritten:

6 "(b21) Service Retirement Allowance of Member Retiring on or After July 1, ~~2003-2003~~, but
7 Before January 1, 2018. – Upon retirement from service in accordance with subsection (a) or (a1)
8 above, on or after July 1, 2003, but before January 1, 2018, a member shall receive the following
9 service retirement allowance:

10 (1) A member who is a law enforcement officer or an eligible former law
11 enforcement officer shall receive a service retirement allowance computed as
12 follows:

13 a. If the member's service retirement date occurs on or after his 55th
14 birthday and completion of five years of creditable service as a law
15 enforcement officer, or after the completion of 30 years of creditable
16 service, the allowance shall be equal to one and eighty-five hundredths
17 percent (1.85%) of his average final compensation, multiplied by the
18 number of years of his creditable service.

19 b. If the member's service retirement date occurs on or after his 50th
20 birthday and before his 55th birthday with 15 or more years of
21 creditable service as a law enforcement officer and prior to the
22 completion of 30 years of creditable service, his retirement allowance
23 shall be equal to the greater of:

24 1. The service retirement allowance payable under
25 G.S. 128-27(b21)(1)a. reduced by one-third of one percent (1/3
26 of 1%) thereof for each month by which his retirement date
27 precedes the first day of the month coincident with or next
28 following the month the member would have attained his 55th
29 birthday;

30 2. The service retirement allowance as computed under
31 G.S. 128-27(b21)(1)a. reduced by five percent (5%) times the
32 difference between 30 years and his creditable service at
33 retirement.

34 (2) A member who is not a law enforcement officer or an eligible former law
35 enforcement officer shall receive a service retirement allowance computed as
36 follows:

37 a. If the member's service retirement date occurs on or after his 65th
38 birthday upon the completion of five years of creditable service or after
39 the completion of 30 years of creditable service or on or after his 60th
40 birthday upon the completion of 25 years of creditable service, the
41 allowance shall be equal to one and eighty-five hundredths percent
42 (1.85%) of average final compensation, multiplied by the number of
43 years of creditable service.

44 b. If the member's service retirement date occurs after his 60th birthday
45 and before his 65th birthday and prior to his completion of 25 years or
46 more of creditable service, his retirement allowance shall be computed
47 as in G.S. 128-27(b21)(2) a. but shall be reduced by one-quarter of one
48 percent (¼ of 1%) thereof for each month by which his retirement date
49 precedes the first day of the month coincident with or next following his
50 65th birthday.

- 1 c. If the member's early service retirement date occurs on or after his 50th
2 birthday and before his 60th birthday and after completion of 20 years
3 of creditable service but prior to the completion of 30 years of creditable
4 service, his early service retirement allowance shall be equal to the
5 greater of:
- 6 1. The service retirement allowance as computed under
7 G.S. 128-27(b21)(2)a. but reduced by the sum of five-twelfths of
8 one percent (5/12 of 1%) thereof for each month by which his
9 retirement date precedes the first day of the month coincident
10 with or next following the month the member would have
11 attained his 60th birthday, plus one-quarter of one percent (1/4
12 of 1%) thereof for each month by which his 60th birthday precedes
13 the first day of the month coincident with or next following his
14 65th birthday; or
 - 15 2. The service retirement allowance as computed under
16 G.S. 128-27(b21)(2)a. reduced by five percent (5%) times the
17 difference between 30 years and his creditable service at
18 retirement; or
 - 19 3. If the member's creditable service commenced prior to July 1,
20 1995, the service retirement allowance equal to the actuarial
21 equivalent of the allowance payable at the age of 60 years as
22 computed in G.S. 128-27(b21)(2)b.
- 23 d. Notwithstanding the foregoing provisions, any member whose
24 creditable service commenced prior to July 1, 1965, shall not receive
25 less than the benefit provided by G.S. 128-27(b)."

26 **SECTION 1.(g)** G.S. 128-27 is amended by adding a new subsection to read:

27 "(b22) Service Retirement Allowance of Member Retiring on or After January 1, 2018. –
28 Upon retirement from service in accordance with subsection (a) or (a1) of this section, on or after
29 January 1, 2018, a member shall receive the following service retirement allowance:

30 (1) A member who is a law enforcement officer or an eligible former law
31 enforcement officer shall receive a service retirement allowance computed as
32 follows:

- 33 a. If the member's service retirement date occurs on or after the member's
34 55th birthday and completion of five years of creditable service as a law
35 enforcement officer, or after the completion of 25 years of creditable
36 service, the allowance shall be equal to one and eighty-five hundredths
37 percent (1.85%) of the member's average final compensation, multiplied
38 by the number of years of the member's creditable service.
- 39 b. If the member's service retirement date occurs on or after the member's
40 50th birthday and before the member's 55th birthday with 15 or more
41 years of creditable service as a law enforcement officer and prior to the
42 completion of 25 years of creditable service, the retirement allowance
43 shall be equal to the greater of the following amounts:
 - 44 1. The service retirement allowance payable under
45 G.S. 128-27(b22)(1)a. reduced by one-third of one percent (1/3
46 of 1%) thereof for each month by which the retirement date
47 precedes the first day of the month coincident with or next
48 following the month the member would have attained age 55.
 - 49 2. The service retirement allowance as computed under
50 G.S. 128-7(b22)(1)a. reduced by five percent (5%) times the

difference between 25 years and the amount of creditable service at retirement.

(2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after the member's 65th birthday upon the completion of five years of creditable service, or after the completion of 30 years of creditable service, or on or after the member's 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and eighty-five hundredths percent (1.85%) of the member's average final compensation, multiplied by the number of years of creditable service.

b. If the member's service retirement date occurs after the member's 60th birthday and before the member's 65th birthday and prior to the completion of 25 years or more of creditable service, the retirement allowance shall be computed as in G.S. 128-27(b22)(2)a. but shall be reduced by one-quarter of one percent (1/4 of 1%) thereof for each month by which the retirement date precedes the first day of the month coincident with or next following the member's 65th birthday.

c. If the member's early service retirement date occurs on or after the member's 50th birthday and before the member's 60th birthday and after completion of 20 years of creditable service but prior to the completion of 30 years of creditable service, the early service retirement allowance shall be equal to the greater of the following amounts:

1. The service retirement allowance as computed under G.S. 128-27(b22)(2)a. but reduced by the sum of five-twelfths of one percent (5/12 of 1%) thereof for each month by which the retirement date precedes the first day of the month coincident with or next following the month the member would have attained the member's 60th birthday, plus one-quarter of one percent (1/4 of 1%) thereof for each month by which the member's 60th birthday precedes the first day of the month coincident with or next following the member's 65th birthday.

2. The service retirement allowance as computed under G.S. 128-27(b22)(2)a. reduced by five percent (5%) times the difference between 30 years and the amount of creditable service at retirement.

3. If the member's creditable service commenced prior to July 1, 1995, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in G.S. 128-27(b22)(2)b.

d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, shall not receive less than the benefit provided by subsection (b) of this section."

SECTION 1.(h) G.S. 128-27(m) reads as rewritten:

"(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the beneficiary designated to receive a return of accumulated contributions shall have the right to elect to receive in lieu thereof the reduced retirement allowance provided by Option two of subsection (g) above computed by assuming that the member had retired on the first day of the month following the date of ~~his~~ the member's death, provided that all four of the following conditions apply:

- 1 (1) a. The member had attained such age and/or creditable service to be
 2 eligible to commence retirement with an early or service retirement
 3 allowance, or
 4 b. The member had obtained 20 years of creditable service in which case
 5 the retirement allowance shall be computed in accordance with ~~G.S.~~
 6 ~~128-27(b21)(1)b.~~ or ~~G.S. 128-27(b21)(2)c.~~, ~~G.S. 128-27(b22)(1)b.~~ or
 7 ~~G.S. 128-27(b22)(2)c.~~, notwithstanding the requirement of obtaining
 8 age 50, or
 9 b1. The member was a law enforcement officer who had obtained 15 years
 10 of service as a law enforcement officer and was killed in the line of
 11 duty, or the member was a firefighter or a rescue squad worker who had
 12 obtained 15 years of service as a firefighter or a rescue squad worker
 13 and was killed in the line of duty, in which cases the retirement
 14 allowance shall be computed in accordance with ~~G.S. 128-27(b21)(1)b.~~,
 15 ~~G.S. 128-72(b22)(1)b.~~, notwithstanding the requirement of obtaining
 16 age 50.
 17 c. Repealed by Session Laws 2010-72, s. 2(b), effective July 1, 2010.

18"

19 **SECTION 2.(a)** G.S. 143-166.41(a) reads as rewritten:

20 **"§ 143-166.41. Special separation allowance.**

21 (a) Notwithstanding any other provision of law, every sworn law-enforcement officer as
 22 defined by G.S. 135-1(11c) or G.S. 143-166.30(a)(4) employed by a State department, agency, or
 23 institution who qualifies under this section shall receive, beginning in the month in which ~~he~~the
 24 officer retires on a basic service retirement under the provisions of G.S. 135-5(a), an annual
 25 separation allowance equal to eighty-five hundredths percent (0.85%) of the annual equivalent of
 26 the base rate of compensation most recently applicable to ~~him~~the officer for each year of
 27 creditable service. The allowance shall be paid in equal installments on the payroll frequency used
 28 by the employer. To qualify for the allowance the officer ~~shall~~shall meet all of the following
 29 criteria:

- 30 (1) ~~Have~~For officers retiring before January 1, 2018, the officer has either (i)
 31 completed 30 or more years of creditable service or, (ii) have attained 55 years
 32 of age and completed five or more years of creditable ~~service;~~ and service.
 33 (2) For officers retiring on or after January 1, 2018, the officer has either (i)
 34 completed 25 or more years of creditable services or (ii) attained 55 years of
 35 age and completed five or more years of creditable service.
 36 ~~(2)(3) Not have~~The officer has not attained 62 years of ~~age;~~ and age.
 37 ~~(3)(4) Have~~The officer has completed at least five years of continuous service as a
 38 law enforcement officer as herein defined immediately preceding a service
 39 retirement. Any break in the continuous service required by this subsection
 40 because of disability retirement or disability salary continuation benefits shall
 41 not adversely affect an officer's qualification to receive the allowance, provided
 42 the officer returns to service within 45 days after the disability benefits cease
 43 and is otherwise qualified to receive the allowance."

44 **SECTION 2.(b)** G.S. 143-166.42(a) reads as rewritten:

45 **"§ 143-166.42. Special separation allowances for local officers.**

46 (a) On and after January 1, 1987, every sworn law enforcement officer as defined by
 47 G.S. 128-21(11d) or G.S. 143-166.50(a)(3) employed by a local government employer who
 48 qualifies under this section shall receive, beginning in the month in which the officer retires on a
 49 basic service retirement under the provisions of G.S. 128-27(a), an annual separation allowance
 50 equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of
 51 compensation most recently applicable to the officer for each year of creditable service. The

1 allowance shall be paid in equal installments on the payroll frequency used by the employer. To
2 qualify for the allowance, the officer ~~shall~~shall meet all of the following criteria:

3 (1) ~~Have~~For officers retiring before January 1, 2018, the officer has either (i)
4 completed 30 or more years of creditable service or (ii) have attained 55 years
5 of age and completed five or more years of creditable service; and service.

6 (2) For officers retiring on or after January 1, 2018, the officer has either (i)
7 completed 25 or more years of creditable services or (ii) attained 55 years of
8 age and completed five or more years of creditable service.

9 ~~(2)(3) Not have~~The officer has not attained 62 years of ~~age; and~~ age.

10 ~~(3)(4) Have~~The officer has completed at least five years of continuous service as a
11 law enforcement officer as herein defined immediately preceding a service
12 retirement. Any break in the continuous service required by this subsection
13 because of disability retirement or disability salary continuation benefits shall
14 not adversely affect an officer's qualification to receive the allowance, provided
15 the officer returns to service within 45 days after the disability benefits cease
16 and is otherwise qualified to receive the allowance."

17 **SECTION 3.** This act becomes effective January 1, 2018.